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Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

**FILED - GR**

December 17, 2018 2:47 PM

CLERK OF COURT

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

BY: mkc SCANNED BY: [Signature]**UNITED STATES DISTRICT COURT**

for the

Western District of Michigan

SOUTHERN Division

**1:18-cv-1392****Paul L. Maloney****United States District Judge**

THOMAS R. MERTZ

Case No. \_\_\_\_\_

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Jury Trial: (check one) ☒ Yes ☐ No**Complaint Missing Page 2 of 6**

BYRON CENTER PUBLIC SCHOOLS et al.  
see attached

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

**COMPLAINT FOR EMPLOYMENT DISCRIMINATION****I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	THOMAS R. MERTZ
Street Address	9333 High Point Drive SE
City and County	Byron Center, Kent County
State and Zip Code	Michigan 49315
Telephone Number	616-971-3407
E-mail Address	

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

**C. Place of Employment**

The address at which I sought employment or was employed by the defendant(s) is

Name	Byron Center Public Schools
Street Address	8542 Byron Center Ave SW
City and County	Byron Center, Kent County
State and Zip Code	Michigan 49315
Telephone Number	(616) 878-6100

**II. Basis for Jurisdiction**

This action is brought for discrimination in employment pursuant to (check all that apply):

☐ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

*(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)*

☒ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

*(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)*

☐ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

*(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)*

☐ Other federal law (specify the federal law):

☒ Relevant state law (specify, if known):

MICHIGAN ELLIOT LARSON CIVIL RIGHTS ACT

☐ Relevant city or county law (specify, if known):

**III. Statement of Claim**

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes *(check all that apply)*:

☐

Failure to hire me.

☒

Termination of my employment.

☐

Failure to promote me.

☐

Failure to accommodate my disability.

☒

Unequal terms and conditions of my employment.

☒

Retaliation.

☐

Other acts *(specify)*: \_\_\_\_\_

*(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)*

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)  
Termination of employment on May 3, 2017 and on multiple other dates before and after this date.

C. I believe that defendant(s) *(check one)*:

☒

is/are still committing these acts against me.

☐

is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

☐

race \_\_\_\_\_

☐

color \_\_\_\_\_

☐

gender/sex \_\_\_\_\_

☐

religion \_\_\_\_\_

☐

national origin \_\_\_\_\_

☒

age *(year of birth)* 1965 *(only when asserting a claim of age discrimination.)*

☐

disability or perceived disability *(specify disability)* \_\_\_\_\_

E. The facts of my case are as follows. Attach additional pages if needed.

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See Attached Charge of Discrimination filed with the EEOC for non exhausted list of discriminatory and retaliatory actions. I am over the age of 40. I am qualified in all respects for my job. I was terminated from my employment at BCPS. I would not have been terminated from my employment but for my age. I was replaced by someone under the age of 40. The reasons articulated by BCPS for my termination are pretext to cover up unlawful discrimination. I also complained of unlawful discrimination. My employment was terminated and other acts of retaliation. My engaging in protected activity was the reason for the retaliatory actions and termination. The reasons articulated by BCPS are a pretext to cover up unlawful retaliation.

*(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)*

#### IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)*

February 27, 2018

- B. The Equal Employment Opportunity Commission *(check one)*:

☐

has not issued a Notice of Right to Sue letter.

☒

issued a Notice of Right to Sue letter, which I received on *(date)* 09/18/2018

*(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)*

- C. ~~Only litigants alleging age discrimination must answer this question.~~

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct *(check one)*:

☒

60 days or more have elapsed.

☐

less than 60 days have elapsed.

#### V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

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Compensatory damages in the form of front pay and back pay, interest, attorney fees and costs, exemplary damages, punitive damages to deter Defendants from engaging in the same wrongful conduct in the future, and such other and further relief that is just and appropriate, in the amount of \$4,000,000.00

## VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

### A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 12/14/2018

Signature of Plaintiff

Printed Name of Plaintiff

Thomas R. Mertz  
THOMAS R. MERTZ

### B. For Attorneys

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

THOMAS R. MERTZ, (Pro Se)

Plaintiff,

v.

**COMPLAINT**

Case No. \_\_\_\_\_

BYRON CENTER PUBLIC SCHOOLS,  
THE BOARD OF EDUCATION OF THE  
BYRON CENTER PUBLIC SCHOOLS,  
DANIEL TAKENS, in his individual and official  
capacity as Superintendent, KEVIN MACINA,  
in his individual and official capacity as  
Assistant Superintendent, ERIN TACOMA,  
in her individual and official capacity as  
Director of Special Education, SCOTT JOSEPH,  
in his individual and official capacity as  
Principal of Byron Center High School, JEFF  
DYKHOUSE, in his individual and official  
capacity as Assistant Principal of Byron Center  
High School,

Trial by Jury Demanded

Defendants.

1. Defendant BYRON CENTER PUBLIC SCHOOLS, of 8542 Byron Center Ave SW, Byron Center, MI 49315, (hereafter BCPS) is a school district authorized and established pursuant to the Revised School Code 380.1, *et seq.*, and is a recipient of federal funds subject to Section 504 of the Rehabilitation Act, and Byron Center High School (hereafter BCHS) is a part of Byron Center Public Schools and is located in the County of Kent, State of Michigan.
2. Defendant, THE BOARD OF EDUCATION OF THE BYRON CENTER PUBLIC SCHOOLS, of 8542 Byron Center Ave SW, Byron Center, MI 49315, Is the duly elected and qualified body authorized to operate the school district of the BYRON CENTER PUBLIC SCHOOLS and is a controlling board as defined in MCL 38.73 (hereinafter "Defendant BOARD") and is located in the County of Kent, State of Michigan.
3. Defendant, DANIEL TAKENS (hereafter TAKENS), of 8542 Byron Center Ave SW, Byron Center, MI 49315, resides in Kent County, Michigan, and is employed by BCPS as Superintendent, and is sued in his individual and official capacity.
4. Defendant, KEVIN MACINA (hereinafter MACINA), of 8542 Byron Center Ave SW, Byron Center, MI 49315, resides in Kent County, Michigan, and is employed by BCPS as Assistant Superintendent, and is sued in his individual and official capacity.
5. Defendant, ERIN TACOMA (hereinafter TACOMA), of 8542 Byron Center Ave SW, Byron Center, MI 49315, resides in Kent County, Michigan, and is employed by BCPS as Director of Special Education, and is sued in her individual and official capacity.

6. Defendant, SCOTT JOSEPH (hereinafter JOSEPH), of 8542 Byron Center Ave SW, Byron Center, MI 49315, resides in Kent County, Michigan, and is employed by BCPS as Principal of Byron Center High School, and is sued in his individual and official capacity.
7. Defendant, JEFF DYKHOUSE (hereinafter DYKHOUSE), of 8542 Byron Center Ave SW, Byron Center, MI 49315, resides in Kent County, Michigan, and is employed by BCPS as Assistant Principal of Byron Center High School, and is sued in his individual and official capacity.